

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

CHARLES W FRANCIOL JR

CASE NO. 6:20-CV-00033

VERSUS

**JUDGE ROBERT R.
SUMMERHAYS**

**U S COMMISSIONER OF SOCIAL
SECURITY**

**MAGISTRATE JUDGE CAROL B.
WHITEHURST**

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, after an independent review of the record, noting the absence of any objection, and having determined that the findings and recommendations are correct under the applicable law;

IT IS ORDERED that the Commissioner's decision should be REVERSED and REMANDED to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g).¹ Upon remand, the ALJ shall consider, *inter alia*, the new evidence in assessing the claimant's RFC for the relevant time period. The claimant should be afforded the opportunity to submit updated medical evidence and to testify at another hearing.

¹ A fourth sentence remand constitutes a final judgment that triggers the filing period for an EAJA fee application. *Shalala v. Schaeffer*, 509 U.S. 292 (1993); *Freeman v. Shalala*, 2 F.3d 552, 553 (5th Cir. 1993).

THUS DONE AND SIGNED in Lafayette, Louisiana, on this 18th day
of March, 2021.

A handwritten signature in black ink, appearing to read 'R. Summerhays', written over a horizontal line.

ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE